ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ : 1570

ಸದಸ್ಯರ ಹೆಸರು : ಶ್ರೀ ಸುನೀಲ್ ವಲ್ಯಾಪುರ (ವಿಧಾನ ಸಭೆಯಿಂದ ಚುನಾಯಿತರಾದವರು)

ಉತ್ತರಿಸುವ ದಿನಾಂಕ : 18/03/2021

ಉತ್ತರಿಸುವ ಸಚಿವರು : ಮಾನ್ಯ ಗೃಹ ಮತ್ತು ಕಾನೂನು, ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಹಾಗೂ ಶಾಸನ ರಚನೆ ಸಚಿವರು

ಕ್ರ.ಸಂ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ರಾಜ್ಯದ ವಿವಿಧ ಜೈಲುಗಳಲ್ಲಿ ಜೀವಾವಧಿ ಶಿಕ್ಷೆಯನ್ನು ಅನುಭವಿಸುತ್ತಿರುವ ಖೈದಿಗಳ ಸಂಖ್ಯೆ ಎಷ್ಟು; (ಜಿಲ್ಲಾವಾರು ಮಾಹಿತಿ ನೀಡುವುದು)	ವಿವರಗಳನ್ನು ಅನುಬಂಧ-1ರಲ್ಲಿ ಲಗತ್ತಿಸಿದೆ.
ಆ)	ಈ ಶಿಕ್ಷೆಯನ್ನು ಅನುಭವಿಸುತ್ತಿರುವ ಖೈದಿಗಳ ಸನ್ನಡತೆ ಆಧಾರದ ಮೇಲೆ ಬಿಡುಗಡೆ ಮಾಡುವ ಪ್ರಸ್ತಾವನೆ ಸರ್ಕಾರದ ಮುಂದೆ ಇದೆಯೇ; ಯಾವ ನಿಯಮಗಳ ಅನ್ವಯ ಬಿಡುಗಡೆ ಮಾಡಲಾಗುವುದು; (ವಿವರ ನೀಡುವುದು).	- ಹೌದು - ಅವಧಿಪೂರ್ವ ಬಿಡುಗಡೆಯ ಮಾರ್ಗಸೂಚಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಹೆಚ್‌ಡಿ 119 ಪಿಆರ್‌ಎ 2018, ದಿನಾಂಕ:21/04/2020ರನ್ವಯ ರಾಜ್ಯದ ಕೇಂದ್ರ ಕಾರಾಗೃಹಗಳಲ್ಲಿನ ಜೀವಾವಧಿ ಶಿಕ್ಷಾ ಬಂದಿಗಳನ್ನು ಸನ್ನಡತೆಯ ಆಧಾರದ ಮೇಲೆ ಬಿಡುಗಡೆ ಮಾಡಲು ಭಾರತ ಸಂವಿಧಾನದ 161ನೇ ಅನುಚ್ಛೇದದ ಪ್ರಕಾರ ಘನತೆವೆತ್ತ ರಾಜ್ಯಪಾಲರಿಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿ ಅನುಮೋದನೆ ಪಡೆದು ಬಿಡುಗಡೆ ಮಾಡಲಾಗುತ್ತದೆ. (ಮಾರ್ಗಸೂಚಿ ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ).
ಇ)	ಎಷ್ಟು ಅವಧಿಯಲ್ಲಿ ಮತ್ತು ಎಷ್ಟು ಖೈದಿಗಳನ್ನು ಸನ್ನಡತೆ ಆಧಾರದ ಮೇಲೆ ಬಿಡುಗಡೆ ಮಾಡಲಾಗುವುದು; (ವಿವರ ನೀಡುವುದು)	ಅವಧಿ ಪೂರ್ವ ಬಿಡುಗಡೆಯ ಮಾರ್ಗಸೂಚಿಯನ್ವಯ ಕೇಂದ್ರ ಕಾರಾಗೃಹಗಳ ಸ್ಥಾಯಿ ಸಲಹಾ ಮಂಡಳಿಗಳು ಸನ್ನಡತೆಯ ಆಧಾರದ ಮೇಲೆ ಜೀವಾವಧಿ ಶಿಕ್ಷಾ ಬಂದಿಗಳ ಅವಧಿ - ಪೂರ್ವ ಬಿಡುಗಡೆಗೆ ಶಿಫಾರಸ್ಸು ಮಾಡಿರುವ ಪ್ರಸ್ತಾವನೆಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿದ್ದು, ಸಚಿವ ಸಂಪುಟಕ್ಕೆ ಮಂಡಿಸಿ ಘನತೆವೆತ್ತ ರಾಜ್ಯಪಾಲರ ಅನುಮೋದನೆಗೆ ಸಲ್ಲಿಸಲು ಕ್ರಮ ವಹಿಸಲಾಗುತ್ತಿದೆ.

ಸಂಖ್ಯೆ: ಹೆಚ್ ಡಿ 47 ಪಿಆರ್‌ಎ 2021

(ಬಸವರಾಜ ಬೊಮ್ಮಾಯಿ)
ಗೃಹ ಮತ್ತು ಕಾನೂನು, ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು
ಹಾಗೂ ಶಾಸನ ರಚನೆ ಸಚಿವರು

ಅನುಬಂಧ-1		
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(ಎಸ್. ಸುರೇಶ್ ಬಾಬು)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಒಳಾಡಳಿತ ಇಲಾಖೆ (ಸೆರೆಮನೆ & ಸಿನಿಮಾ).

(उप)



PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Sub: Issuance of Guidelines to consider the cases for premature release of life convicts serving sentence in the prisons of the State.

PREAMBLE:

The motto of Prison Administration is not only for punishment, but to consider conduct, behaviour and performance of prisoners while in Prison and life convicts including old-age life convicts be released and so they may be brought to the mainstream of the Society and also to provide for their rehabilitation.

The National Human Rights Commission, Model Prison Manual, All India Committee on Jail Reforms headed by Hon'ble Justice A.N. Mulla have also recommended to consider conduct, behaviour and performance of prisoners while in prison and the possibility of their being released by remitting unexpired portion of sentence or by an order granting them premature release, so that they become better human beings and integrate into the society.

Keeping in view the above, the Government of Karnataka has issued guidelines for recommendation to Hon'ble Governor of Karnataka for premature release of life convicts exercising the powers of Hon'ble Governor under Article 161 of Constitution of India. The provision under the present guidelines debars certain categories of life convicts from recommending for premature release, on grounds of provisions of Section 433A of Cr P.C. which is contrary to the spirit of the authority of Hon'ble Governor under Article 161 of the Constitution of India. DG, Prisons & Correctional Services, Karnataka has also recommended for consideration of some category of life convict prisoners who are languishing in prison for more than 14 years for consideration in line with practice in other States.

The opinion of Hon'ble Advocate General in this regard has been sought and he has referred law laid down by the Hon'ble Supreme Court of India in Union of India V/s. Sriharan (2016) 7 SCC1 and has given opinion is as follows:

(1) Article 161 of the Constitution of India is not restricted by any of the limitations provided for in the Criminal Procedure Code. However, the Governor exercises power under Article 161 and in accordance with the aid and advice of the Council of Ministers.

...2..

(2) All applications for pardon would have to be considered by the Government before placing the same before the Governor with the recommendations of the Council of Ministers.

Section 55 of the Indian Penal Code state that;-

"Commutation of sentence of imprisonment for life.- In every case in which sentence of imprisonment for life shall have been passed, the appropriate Government may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years."

Section 433A of Cr.P.C. also mentioned about remission or commutation of sentence of imprisonment for life after serving atleast fourteen years of imprisonment.

The issue of modification of guidelines to consider the cases for premature release of life convicts considering conduct, behaviour and performance of prisoners while in prison and age of prisoners serving life sentence were discussed several times by the "Life Convicts Release Committee." The Life Convicts Release Committee has come to opinion that the Guidelines which have been issued vide G.O.No. HD 169 PRA 2016 dt: 23.08.2016 needs to be withdrawn. A fresh G.O needs to be issued, in conformity with the law laid down by the Hon'ble Supreme Court in the above referred judgement, Section 55 of IPC and in view of the opinion expressed by the Hon'ble Advocate General of Karnataka.

Hence, keeping in view the above, the Government of Karnataka issue the following guidelines for submitting proposal for premature release of life convicts before His Excellency, the Governor of Karnataka, under Article 161 of the Constitution of India, considering age of prisoner, conduct, behaviour and performance of prisoners during the period of serving sentence as per the Prison Manual.

Hence the Order.

GOVERNMENT ORDER NO. HD 119 PRA 2018, BENGALURU, DATED:21/04/2020

Under the circumstances explained in the preamble, in supersession of all the earlier orders issued in this regard, the Government of Karnataka is pleased to issue the following guidelines, for premature release of prisoners convicted for life imprisonment.

I. The following categories of life convict prisoners **shall not** be considered for premature release:

i) Where life sentence has been awarded specifying that:

a) the convict shall undergo sentence till the end of his life without remission or commutation,

b) the convict shall not be released by granting remission or commutation till he completes specified fixed term of sentence such as 20 years or 25 years as the case may be.

ii) Where the investigation was conducted by any Central Investigating Agency viz., the Central Bureau of Investigation, National Investigation Agency etc.

iii) Where the sentence for life is awarded under Section 376 (A to E), 377 of the Indian Penal Code 1860, Protection of Children from Sexual Offences (POCSO) Act, SC / ST Act, & NDPS Act.

iv) Cases of convicts involved in terrorist activities or persons convicted under Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA), The Prevention of Terrorism Act, 2002 (POTA), Unlawful Activities (Prevention) Act, 1967 (UAPA), The Explosive Substances Act 1908, The National Security Act, 1982 (NSA), Official Secrets Act, 1923, Anti-Hijacking Act, 2016.

v) Foreign Nationals.

vi) Prisoners convicted by other Countries/States lodged in the prisons in Karnataka State.

vii) Prisoner who committed murder of prison official, prisoner, prison visitors or public servants while on duty.

viii) A criminal appeal pending in any Court or criminal case pending trial against the prisoner or fine amount imposed in conviction order is due.

ix) Offences committed under Chapter VI (offences against the State) & Chapter VII (offences relating to the Army, Navy & Air Force).

x) Murder by a person under sentence of imprisonment for life (Section 303 of IPC)

xi) Prisoners convicted for two or more murder cases, gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murder as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.

...4..

II. Life convict prisoners convicted for committing or abetting following offences **shall not** be entitled to be considered for premature release before completion of actual imprisonment of 14 years without remission:-

i) Prisoners for whom sentence of death penalty imposed was modified under Section 433A Cr.P.C. into imprisonment for life.
ii) Murder with robbery and dacoity
iii) Dowry death
iv) Offences under Section 194, 305 of IPC.
v) Attempt by life convict to murder (if hurt is caused) Section 307(3)
vi) Death under Police Custody.

III. A Life sentenced convict **shall not** be entitled to be considered for premature release for five years, from date of readmission/arrest, and as the case decided by the court, before completion of actual imprisonment of 14 years without remission for committing or abetting following offences/indiscipline during the imprisonment:

i. Prisoners released on parole and having not surrendered voluntarily in time.
ii. Prisoners escaped from custody.
iii. Prisoners who committed offences in prison while in custody.

IV. Life convict prisoners not covered under the above I, II & III categories may be considered for premature release considering conduct, behaviour and performance of prisoners while in prison and age of prisoners serving life sentence as below:

(a) Male prisoners undergoing the sentence for life imprisonment shall be entitled to be considered for premature release after they have served total 14 years of imprisonment with remission but only after completion of 10 years of actual imprisonment without remission.

(b) Female prisoners undergoing the sentence for life imprisonment shall be entitled to be considered for premature release after they have served total 10years of imprisonment with remission but only after completion of 7years of actual imprisonment without remission.

(c) Male prisoners undergoing life sentence shall be entitled to be considered for premature release who have attained the age of 65 years and have served total imprisonment of 12 years with remission but only after completion of 9 years of actual imprisonment without remission.

. . . 5 . .

(d) Female prisoners undergoing the sentence for life imprisonment shall be entitled to be considered for premature release who have attained the age of 60 years and have served total imprisonment of 9 years with remission but only after completion of 7 years of actual imprisonment without remission.

Note: (i) Before considering for convicts under Part IV (c) & (d) the date of official birth of prisoner should be ascertained from his education certificate or any other official record

(ii) Whenever there is a difference in age mentioned in the conviction order and age as per the official record of the convicts, the latest of the two should be considered for calculation of age required for Part-IV (c) & (d).

V. Prisoners convicted for life in any court entitled to be released under these guidelines shall execute bond of surety with terms and conditions prescribed in this regard.

VI. Procedure to be adopted:

(i) The Director General, Prisons & Correctional Services, Karnataka, Bengaluru shall send the list of such eligible convicted prisoners as per the guidelines along with the recommendations of the respective Advisory Board in the prescribed proforma along with individual case files.

The said list of eligible convicts shall be scrutinized by the following Life Convicts Release Committee (LCRC):-

Principal Secretary /Secretary (PCAS) Home Department	Chairperson
Principal Secretary / Secretary Law Department	Member
Additional Director General of Police (Law and Order)	Special Invitee
Additional Director General of Police (Crime and Technical Services)	Special Invitee
Director of Prosecution & Government Litigation	Member
Director General, Prisons & Correctional Services, Karnataka.	Member Secretary

(ii) This committee shall review the proposals, case by case, record the proceedings of the meeting in detail with opinion of the members, including dissent note, if any, with reasons as quoted by the dissenting member.

(iii) The list of recommended proposals shall be submitted to the State Cabinet for decision as per the procedure.

(iv) The proposals under Article 161 that have been approved by the State Cabinet shall be sent to the Hon'ble Governor of Karnataka, separately in each case for approval. On receipt of the approval, further necessary action shall be taken by the Home Department.

This is issued with the consent of the Cabinet vide its decision No. C:180/2020 dtd: 20-04-2020.

BY ORDER AND IN THE NAME OF THE GOVERNOR OF KARNATAKA

M. R. Shobha

(M.R. SHOBHA)
Under Secretary to Government,
Home Department (Prisons and Cinema)

To:

The Compiler, Karnataka State Gazette- request for publication in the next State Gazette.

Copy to:

1. The Additional Chief Secretary / Principal Secretary to Chief Minister, Government of Karnataka, Bengaluru.
2. The Secretary to Hon'ble Governor of Karnataka, Raj Bhavan, Bengaluru.
3. Advocate General, High Court of Karnataka, Bengaluru.
4. The Principal Secretary to Government, Law Department.
5. The Director General & Inspector General of Police, Nrupatunga Road, Bengaluru.
6. The Director General, Prisons & Correctional Services, Seshadri Road, Bengaluru.
7. Additional Director General of Police (Law and Order), Bengaluru.
8. Additional Director General of Police (Crime& Technical Services), Bengaluru.

...7..

9. The Director of Prosecution & Government Litigation, Cauvery Bhavan, Bengaluru.
10. The Private Secretary to Home Minister, Government of Karnataka, Bengaluru.
11. The Private Secretary to Minister of Law, Justice and Human Rights Government of Karnataka, Bengaluru.
12. The Private Secretary to Chief Secretary to Government of Karnataka, Bengaluru.
13. The Joint Secretary to the Government of India, Ministry of Home Affairs (Women Safety/ CS Division), 5th Floor, NDCC-II Building, Jai Singh Road, New Delhi-110 001.
14. All Commissioners of Police.
15. All Deputy Commissioners / Superintendents of Police I/C of the Districts.
16. All Chief Superintendents / Superintendents of Central Prisons.
17. Deputy Secretary to Government (Cabinet Section), DPAR, Vidhana Soudha, Bengaluru.
18. The Private Secretary to the Additional Chief Secretary to Government, Home Department.
19. The Senior Private Secretary to the Principal Secretary to Government (PCAS), Home Department.
20. PA to Deputy Secretary to Government, Home Department (Prisons & Crime).
21. Section Guard File / Spare copies.